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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,221	06/27/2003	Peter R. Van Tyle	MAEE 2 00049	7552

7590

03/29/2006

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EXAMINER

OSELE, MARK A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,221

Applicant(s)

VAN TYLE ET AL.

Examiner

Mark A. Osele

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12, 17, 18, 20-25, 31-42, 44 and 61-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 12, 17, 18, 20-25, 62 and 65-70 is/are allowed.
- 6) ☒ Claim(s) 6-9, 31, 42, 44, 63 and 64 is/are rejected.
- 7) ☒ Claim(s) 10, 32-41 and 61 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 6-9 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Hoffman et al. (2004/0149798). Hoffman et al. shows a tape dispenser comprising an annular support, 38, for a roll of tape and a radially extending dispensing arm, 72, having a top and a bottom, said bottom including a tape guide along which tape is dispensed, the tape guide having an outer end, laterally spaced apart opposite sides and a central portion between and spaced below said sides. Hoffman et al. further shows a tape applicator with a serrated cutting edge, 74, forward of the outer end of the bottom. Hoffman et al. also shows a pair of central ribs extending from the inner end and terminating at the outer end of the dispensing arm as well as a rib laterally outwardly adjacent each of the central ribs.

Regarding claims 7 and 9, the sides of the extending arm comprise ledges.

Regarding claim 31, the housing and extending arm have an arcuate wall.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 42, 44, and 63-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of either Lin (4,792,375) or Shah (6,612,474). As shown in paragraph 2 above, Hoffman et al. shows all of the instantly claimed limitations except for the brake.

Lin shows a tape dispenser with a manually operable brake of compressible plates 33A and 33B pressing a portion of a wall against the hub. Shah shows a tape dispenser with a manually operable brake of compressible plate 30 pressing a portion of a wall against the hub (column 7, lines 10-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the known brake of Lin into the apparatus of the references as combined because braking of the roll prevents free wheeling of the tape (column 3, lines 20-43).

Allowable Subject Matter

5. Claims 10, 32-41 and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 11-12, 17-18, 20-25, 62 and 65-70 are allowed.

Response to Arguments

7. Applicant's arguments filed March 2, 2006 have been fully considered but they are not persuasive. Applicants argue that the Hoffman et al. references is not prior art against the instant application because it was not filed prior to applicants' filing date of provisional application 60/395,779. The examiner has reviewed provisional application 60/395,779 and found that it does not support all of the limitations of the currently rejected independent claims. As none of the rejected claims are fully supported by the disclosure of the provisional application, it does not provide a valid priority date for the claims of the instant application and the rejections based upon Hoffman et al. are proper.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1734

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Osele whose telephone number is 571-272-1235. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on 571-272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK A. OSELE
PRIMARY EXAMINER

March 21, 2006